

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

AUG 13 2014

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION

By: JAMES W. McCORMACK, CLERK  
Sono DEP. CLERK  
Case No. 4:14 cv 473 Sono

VOLUNTEER BARGE & TRANSPORT, INC.

PLAINTIFF

v.

This case assigned to District Judge Wright  
and to Magistrate Judge Ram

THE SCOLAR COMPANY

DEFENDANT

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COMPLAINT FOR DAMAGES  
(Electronically Filed)

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COMES NOW Plaintiff, Volunteer Barge & Transport, Inc. ("Volunteer"), and in support of its Complaint against Defendant, The Scoular Company ("Scoular"), respectfully represents, upon information and belief, as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the FEDERAL RULES OF CIVIL PROCEDURE, and this Court has jurisdiction over the claim pursuant to 28 U.S.C. § 1333.
2. Venue is proper under 28 U.S.C.A. § 1391, in that a substantial part of the events or omissions giving rise to the claim occurred within this judicial district.
3. Plaintiff, Volunteer, at all relevant times was and is organized and doing business under the laws of the State of Tennessee.
4. Defendant, Scoular, at all relevant times was and is a corporation organized and doing business under the laws of the State of Arkansas.
5. At all relevant times, Volunteer was the operator and owner *pro hac vice* of the barge CH0074, Official No. 1099544 (the "Barge").

6. Prior to the voyage and incident that is the subject of this proceeding, and at all relevant times, Volunteer exercised due diligence to place and maintain the Barge in a seaworthy condition in all respects, and the Barge was in fact tight, staunch, strong, fully and properly equipped, and seaworthy in all respects, fit and proper for the service in which it was engaged at the time of the occurrence hereinafter described.

7. On December 13, 2013, the Barge was afloat and positioned at Scoular's dock located in Helena, Arkansas at River Mile 666 of the Lower Mississippi River.

8. Scoular began loading cargo to the Barge on December 13, 2013.

9. During the course of Scoular's loading operations on December 13, 2013, Scoular unevenly loaded cargo in the bow of the Barge resulting in the Barge being unevenly drafted such that the Barge was in a position where its bow was facing in a downward position (i.e., uneven) in the water.

10. Scoular suspended loading operations on December 13, 2013, with the Barge only partially loaded and remaining in an uneven / bow-down position in the water overnight.

11. On the morning of December 14, 2013, when Scoular returned to resume cargo loading operations, it discovered that the Barge was partially submerged into the river (the Barge's bow was submerged) with portions of the Barge taking on water and the cargo which was loaded to the Barge the day before wet.

12. Scoular's negligence, which included improper loading and, upon information and belief, the failure to properly check and monitor the Barge and other failures which constitute negligence, caused the Barge to sink.

13. The incident as described herein, and all losses and damages resulting from it, were not caused by negligence on the part of Volunteer, or on the part of the Barge itself, or any persons or entities for whom Volunteer was responsible, nor were there any unseaworthy conditions of the Barge which caused or contributed to the incident made subject of this matter.

14. As a result of Scoular's negligence and the sinking, thus far Volunteer has incurred the following losses/damages:

- (a) demurrage charges to date - \$10,200.00;
- (b) sue and labor/salvage and associated costs to date - \$301,507.88;
- (c) property damage and repair costs to date - \$91,843.15;
- (d) total damages thus far - \$403,551.03.

15. In addition to the foregoing damages, Volunteer has also suffered lost profits/loss of use in an amount to be determined and other damages as will be shown at trial of this matter.

WHEREFORE, Plaintiff, Volunteer Barge & Transport, Inc. prays that its Complaint for Damages be deemed good and sufficient, and after due proceedings are had, there be judgment herein in its favor against Defendant, The Scoular Company, for any and all damages arising out of the December 13, 2013, sinking as described herein for demurrage; sue and labor/salvage and associated costs; property damage and repair costs; loss of use/lost profit; pre and post judgment interest; and, any and all other damages Volunteer Barge & Transport, Inc. may be entitled to receive, together with such further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED, this the 12th day of August, 2014.

THE MILLER LAW FIRM, PLLC

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